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FISCAL IMPACT STATEMENT

LS 7381

BILL NUMBER: SB 528

NOTE PREPARED: Apr 10, 2013

BILL AMENDED: Apr 9, 2013

SUBJECT: Gaming.

FIRST AUTHOR: Sen. Boots

FIRST SPONSOR: Rep. Davis

BILL STATUS: CR Adopted 2nd House

FUNDS AFFECTED: X GENERAL
X DEDICATED
FEDERAL

IMPACT: State & Local

Summary of Legislation: (Amended) The bill does the following:

The bill allows the Indiana Horse Racing Commission (IHRC) to reduce the amount that a permit holder is required to retain from amounts wagered if reducing the amount retained is in the best interests of horse racing in Indiana.

The bill allows gaming licensees to deduct adjusted gross receipts attributable to free play wagering on the day that the free play wager is made. It provides that the total amount deducted by a licensee for promotional play may not exceed \$3,000,000 in state fiscal year 2014 and \$5,000,000 in each state fiscal year thereafter.

The bill authorizes horse racing associations and racino licensees to negotiate the amount of slot machine receipts used to support the horse racing industry. It provides that the agreement must require between 9% and 11% of the licensee's adjusted gross receipts. It requires a racino licensee to make revenue sharing distributions for, the gaming integrity fund, a motorsports investment district and the motorsports industry.

The bill provides that certain local development agreement reports must be made available through the Indiana transparency web site for local government.

The bill establishes the Indiana Gaming Investment Tax Credit for certain capital investments that are made after December 31, 2013, and before January 1, 2019, by a licensed owner or operating agent of a riverboat casino or by a racino licensee. It provides that the amount of the tax credit is equal to 10% of the qualified capital investment made by the taxpayer during the taxable year. It specifies that the total amount of tax credits awarded may not exceed \$40 M in a state fiscal year.

The bill adds gaming agents to the definition of "law enforcement officer" for purposes of the criminal code.

The bill increases the maximum the maximum value of a prize that may be won in toy crane machine or other device played for amusement.

The bill requires the Indiana Gaming Commission (IGC) to conduct a study regarding the use of complimentary promotional credit programs by Indiana racinos and casinos. It requires the IGC to study the impact of complimentary credit programs on state gaming revenues. The IGC shall present its findings and recommendations, if any, to the budget committee before November 1, 2015.

It repeals an obsolete provision concerning the riverboat admissions taxes formerly distributed to the IHRC. It repeals the obsolete supplemental fee. It makes technical corrections.

Effective Date: Upon passage; July 1, 2013; January 1, 2014.

Summary of NET state impacts: (Revised) The estimated impact of the bill on state funds is summarized in the table below:

ENTITY / FUND	FY 2013	FY 2014	FY 2015
State General Fund	(\$11.18 M)	(\$16.03 M)	(\$18.07 M)
Tobacco Master Settlement	\$0	(\$3.0 M)	(3.0 M)
Motorsports Investment District Fund	\$0	\$5.0 M	\$5.0 M
IEDC	\$0	\$5.0 M	\$5.0 M
Thoroughbred Breed Fund	(\$0.06 M)	(\$0.37 M)	(\$2.52 M)
Standardbred Breed Fund	(\$0.08 M)	(\$0.39 M)	(\$3.05 M)
Quarterhorse Breed Fund	(\$0.01 M)	(\$0.01 M)	(\$0.32 M)
TOTAL	(\$11.33 M)	(\$9.80 M)	(\$16.96 M)

Explanation of State Expenditures: *Pari-Mutuel Wagering Handle Retained by Permit Holder:* The bill allows the Indiana Horse Racing Commission (IHRC), upon request of a horsemen's association, to reduce the statutorily specified shares of the pari-mutuel wagering handle that a permit holder retains under current statute if it is in the best interest of the horse racing industry. The reduction in amounts retained by the permit holder would be used to increase purses. A permit holder withholds: (1) 18% of the total of money wagered on each day at the racetrack or satellite facility; plus (2) an additional 3.5% of the total of all money wagered on exotic wagering pools on each day at the racetrack or satellite facility. Shares of the amounts withheld are required by statute to be retained by the permit holder and used for purses and payment of pari-mutuel taxes.

(Revised) *Indiana Gaming Commission (IGC):* The bill requires the IGC to conduct a study regarding the use of complimentary promotional credit programs by Indiana racinos and casinos and report its findings to the State Budget Committee before November 1, 2015. The IGC should be able to incorporate the study of this

topic within its current resources.

Explanation of State Revenues: (Revised) *Promotional Free Play Deduction for Riverboat Casinos and Racinos:* The bill provides an adjusted gross receipts (AGR) deduction for promotional free play provided by a riverboat casino or racino to patrons. The deduction must be claimed by the casino or racino against AGR on the day the promotional free play wager is made. The deduction is effective upon passage of the bill. There is no cap on the amount of the deduction for the remainder of FY 2013. The deduction is capped at \$3 M annually per casino/ racino in FY 2014, and \$5 M annually per casino/racino beginning in FY 2015. The deduction reduces the taxable base for the riverboat wagering tax, the racino slot machine wagering tax, and the required set aside of racino AGR for horsemen and other purposes. The estimated impact on state funds from the free play deduction is summarized in the table below.

Tax Type	Fund Type	FY 2013	FY 2014	FY 2015
Riverboat Wagering Tax	State General Fund	(\$9.13 M)	(\$8.30 M)	(\$13.83 M)
Racino Wagering Tax	State General Fund	(\$1.64 M)	(\$1.34 M)	(\$2.19 M)
TOTAL		(\$10.77 M)	(\$9.64 M)	(\$16.02 M)

Based on the range of promotional spending reported by casinos in Pennsylvania and New Jersey, it is assumed that all the casinos will claim the full \$3 M AGR deduction in FY 2014 and the full \$5 M AGR deduction beginning in FY 2015. Because the deduction is effective upon passage of the bill, it is estimated that all casinos/racinos will claim the deduction in FY 2013. The casinos/racinos claim will range between \$1 M and \$6.5 M of AGR in FY 2013. Some of the revenue loss from the promotional free play deduction could be offset if the deduction induces additional promotional spending by the casinos and racinos, which in turn increases the aggregate amount of spending by gamblers in the state. A small portion of the wagering tax revenue from the French Lick casino is distributed to Indiana Economic Development Corporation (IEDC). The revenue loss estimates are based on the Revenue Technical Committee forecast (December 17, 2012) for gaming revenue.

The racinos are also required to pay 15% of their annual slot machine AGR to the following purposes:(1) Tobacco Master Settlement Fund; (2) Gaming Integrity Fund; (3) the state Breed Development Funds; (4)private horsemen's associations; and (5) horse racing purses. A portion of the 15% payment that exceeds a specified annual cap is deposited in state General Fund. The promotional free play deduction is estimated to reduce the AGR that is the basis for the 15% payment. The reduction would not affect the payments to the state Gaming Integrity Fund and Tobacco Master Settlement because these payments are fixed dollar amounts. However the reduction would reduce revenue to the other purposes which are percentage distributions, including distributions to the state Breed Development Funds which are administered by the IHRC. The reduction also would impact the distribution to the state General Fund. The impact on state funds is summarized in the table below.

Fund Type	FY 2013	FY 2014	FY 2015
Thoroughbred Breed Fund	(\$0.06 M)	(\$0.07 M)	(\$0.12 M)
Standardbred Breed Fund	(\$0.08 M)	(\$0.09 M)	(\$0.15 M)
Quarter horse Breed Fund	(\$0.01 M)	(\$0.01 M)	(\$0.02 M)
State General Fund	(\$0.41 M)	(\$0.39 M)	(\$0.65 M)
TOTAL	(\$0.56 M)	(\$0.56 M)	(\$0.94 M)

(Revised) *15% of AGR set aside*: The bill authorizes the horsemen's associations and racino licensees to negotiate the amount of slot machine receipts used to support the horse racing industry beginning after July 1, 2013. The new negotiated amount would be distributed starting January 1, 2014. The distribution agreement must be between 9% and 11% of a licensee's adjusted gross receipts. The agreement is subject to the approval of the Indiana Horse Racing Commission. The bill requires that in the absence of an agreement between the horsemen's associations and the racinos, the IHRC will set the distribution rate. The bill also makes changes to the distributions from the set aside. It provides for the following distributions per licensee starting in FY 2014:

(1) 15% of AGR for the horse racing purposes between July 1, 2013 and December 31, 2013. A negotiated amount between 9% and 11% of AGR for the horse racing purposes starting January 1, 2014.

(2) \$250,000 to Gaming Integrity Fund.

(3) \$2.5 M to the Motorsports Investment District Fund (The fund does not exist under current law and is not established by this bill.)

(4) \$2.5 M to the Indiana Economic Development Corporation (The bill does not specify the use of these funds.)

Assuming the parties agree to a 10% rate, the total set aside amount will be reduced by \$10 M beginning in FY 2015. [Current statute requires each racino licensee to distribute 15% of its slot machine AGR to various purposes relating to the horse racing industry.] Since the racinos do not pay slot machine wagering tax on the set aside amount, any reduction in the set aside amount would lead to an increase in revenue from this tax. The impact from the change in the distributions of the set aside is shown in the table below.

ENTITY / FUND	FY 2014	FY 2015
State General Fund	(\$6.0 M)	(\$1.4 M)
Tobacco Master Settlement	(\$3.0 M)	(\$3.0 M)
Motorsports Investment District Fund	\$5.0 M	\$5.0 M
IEDC	\$5.0 M	\$5.0 M
Thoroughbred Breed Fund	(\$0.3 M)	(\$2.4 M)
Standardbred Breed Fund	(\$0.3 M)	(\$2.9 M)
Quarterhorse Breed Fund	\$0	(\$0.3 M)
TOTAL	\$0.4 M	\$0

Indiana Gaming Investment Tax Credit: The bill provides a nonrefundable income tax credit for qualified capital investment on a gaming facility that exceeds \$2 M and is made towards: (1) onsite infrastructure improvements; (2) construction of a gaming facility or other buildings; (3) rehabilitation, alteration, or major repair of a gaming facility or other buildings or improvements; (4) installation of fixtures and equipment in a gaming facility or other buildings or improvements. The qualified capital investment must be approved by the IEDC. The tax credit is equal to 10% of the qualified investment. The tax credit could be claimed by a licensed owner, permit holder, or operating agent of any Indiana casino or racino. It provides that the tax credit can be carried forward for up to nine taxable years. The tax credit could also be assigned to taxpayers constructing amenities related to the gaming facility and that enhance the gaming experience. The assignment must be approved by the IEDC. The total amount of tax credits awarded may not exceed \$40 M in a state fiscal year. The tax credit could be claimed for investments made after December 31, 2013, and before January 1, 2019. This would mean that investment in up to six state fiscal years (FY 2014 to FY 2019) could qualify for the tax credit. Based on the annual cap of \$40 M, the maximum impact from the tax credit could be up to \$240 M claimed for investment in six fiscal years. The actual impact could potentially be lower due to market factors restricting investments of large magnitude in the short term.

Explanation of Local Expenditures:

Explanation of Local Revenues: *Promotional Free Play Deduction for Riverboat Casino and Racinos:* The deduction reduces the taxable base for the riverboat wagering tax, some of which is distributed to local units, and the 3% county slot machine wagering tax. The estimated revenue loss to local units receiving revenue from these taxes is summarized in the table below.

Local Unit	FY 2013	FY 2014	FY 2015
Rising Sun	(\$0.08 M)	(\$0.16 M)	(\$0.26 M)
Gary	(\$0.24 M)	(\$0.38 M)	(\$0.63 M)
French Lick	(\$0.03 M)	(\$0.06 M)	(\$0.10 M)
Orange County	(\$0.03 M)	(\$0.07 M)	(\$0.12 M)
Orange Co. Convention & Visitor's Bureau	(\$0.03 M)	(\$0.06 M)	(\$0.10 M)
Orleans	(\$0.02 M)	(\$0.04 M)	(\$0.06 M)
Paoli	(\$0.02 M)	(\$0.04 M)	(\$0.06 M)
West Baden Springs	(\$0.03 M)	(\$0.06 M)	(\$0.10 M)
Madison County	(\$0.07 M)	(\$0.08 M)	(\$0.13 M)
Shelby County	(\$0.07 M)	(\$0.08 M)	(\$0.13 M)
TOTAL	(\$0.62 M)	(\$1.03 M)	(\$1.69 M)

State Agencies Affected: Indiana Gaming Commission, Indiana Horse Racing Commission, Department of State Revenue, Indiana Economic Development Corporation, State Budget Agency, State Budget Committee, Department of Natural Resources.

Local Agencies Affected: Local Units receiving riverboat wagering tax, racino wagering tax, or riverboat admissions tax.

Information Sources: Indiana Gaming Commission, Annual Report FY 2011-FY 2012; State Budget Agency, Build Indiana Fund Report FY 2011; OFMA, Casino Data; Revenue Technical Committee Forecast (December 17, 2012); Pennsylvania Gaming Control Board, Gaming Revenue Reports, FY 2010-FY 2012; New Jersey Casino Control Commission, Annual Report 2009-2011.

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